



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,293	05/25/2001	Steven W. Reichenthal	PD-01-275 (BOE 0193 PA)	5200

7590 06/14/2005

Robert P. Renke
Artz & Artz, P.C.
Suite 250
28333 Telegraph Road
Southfield, MI 48034

EXAMINER

STEVENS, THOMAS H

ART UNIT	PAPER NUMBER
----------	--------------

2123

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/865,293

Applicant(s)

REICHENTHAL, STEVEN W.

Examiner

Thomas H. Stevens

Art Unit

2123

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

20

DETAILED ACTION

1. Claims 1-22 were examined.

Section I: Response to Applicant's Arguments (1st Office Action)

Specification

2. Applicant is thanked for addressing this issue. Objection is withdrawn.

37 C.F.R. 1.131

3. The declaration filed on May 25 2001 under 37 CFR §1.131 has been considered but ineffective to overcome the Huang et al. reference ("Building a Web-based Federal Simulated System with Jini and XML").

3b. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Huang et al. reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler 1. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1987). Also applicant had not provided direct correlation between exhibits and the claims. For example, exhibit B is a letter of between the inventor and another colleague discussing a status report; although ItemClass is mentioned (e.g., claims 10), there's no detailed disclosure between the claims and exhibit A. Furthermore, there's little

evidence of diligence between conception and reduction to practice between March 7 2001 and the filing date of May 25, 2001.

3c. Per MPEP 715.

The essential thing to be shown under 37 CFR 1.131 is priority of invention and this may be done by any satisfactory evidence of the fact. **FACTS, not conclusions, must be alleged.** Evidence in the form of exhibits may accompany the affidavit or declaration. **Each exhibit relied upon should be specifically referred to in the affidavit or declaration, in terms of what it is relied upon to show.** A general allegation that the invention was completed prior to the date of the reference is not sufficient. *Ex parte Saunders*, 1883 C.D. 23, 23 O.G. 1224 (Comm'r Pat. 1883). Similarly, a declaration by the inventor to the effect that his or her invention was conceived or reduced to practice prior to the reference date, **without a statement of facts demonstrating the correctness of this conclusion, is insufficient to satisfy 37 CFR 1.131.** When reviewing a 37 CFR 1.131 affidavit or declaration, the examiner must consider all of the evidence presented in its entirety, including the affidavits or declarations and all accompanying exhibits, records and "notes." An accompanying exhibit need not support all claimed limitations, provided that any missing limitation is supported by the declaration itself. *Ex parte Ovshinsky*, 10 USPQ2d 1075 (Bd. Pat. App. & Inter. 1989). The affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice amounts essentially to mere pleading, unsupported by proof or a showing of facts* and, thus, does not satisfy the requirements of 37 CFR 1.131(b). *In re Borkowski*, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant. 505 F.2d at 718-19, 184 USPQ at 33. See also *In re Harry*, 333 F.2d 920, 142 USPQ 164 (CCPA 1964) (Affidavit "asserts that facts exist but does not tell what they are or when they occurred."). In general, proof of actual reduction to practice requires a showing that the method actually existed and worked for its intended purpose.

Section II: Final Rejection (2nd Office Action)

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 2123

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claim 22** is rejected under 35 U.S.C. 102(b) as being anticipated by Miller et al (Miller et al, "JSIM: A Java-Based Simulation and Animation Environment," *Proceedings of the 30th Annual Simulation Symposium*, Atlanta, Georgia, April 1997, pp. 31-42), herein referred to as **Miller '97**.

6. As to **Claim 22**, **Miller '97** teaches: a computer system for performing simulations comprising: means for providing and processing the simulation model and means for outputting the process of the simulation model (**section 1, paragraph 1, sentences 3-5, page 32, paragraph 4, sentences 3-6**).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

Art Unit: 2123

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. **Claims 1-7, 9-21** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Miller '97**, and further in view of Huang et al, (Huang et al, "Building a Web-Based Federated Simulation System with Jini and XML," *Proceedings of the 34th Annual Simulation Symposium*, Seattle, Washington, April 2001, pp. 143-150), herein referred to as **Huang**.

10. As to **Claims 1-7, 9-21**, **Miller '97** teaches: a simulation reference simulator adapted to receive a simulation model including a simulation item (**page 32, paragraph 4, sentences 2-6**) wherein said simulation reference simulator comprises an item manager for loading properties of each item (**page 39, column 1, last 2 sentences**) and an event manager for processing the simulation model (**page 33, column 1, last paragraph-column 2, first paragraph**), a random number generator (**section 3.3**), means for processing mathematical and statistical functions (**section 3.2**), a host in operative communication with said simulation reference simulator wherein the host comprises a general purpose digital computer including memory storing a host program (**section 1, paragraph 1, sentences 2-5, section 2, second paragraph**), executing said model with said simulation reference simulator (**section 3.4.9, last paragraph**), providing an output indicative of the simulation process (**section 1, sentence 5**), wherein the step of defining a simulation model includes defining a plurality of items including a Property (**section 5, second paragraph**) wherein each Item represents an article, process or system (**section 3.4, sentence 1**, wherein sections 3.4.1-3.4.11 show Items that are included in the process package), wherein at least one item or Property includes an ItemID defining a script object (**section 3.4.3, "simID"**) and an ItemClass property (**section 3.4.3 "class SimObject"**), wherein said Property includes Links to other items (**section 3.4.4**, wherein Transport connects two nodes), wherein said Property includes a Location identifier of the Item (**section 3.4.3, paragraph 2, "xpos and ypos", page 39, column 1, "draw" method and description**), wherein said

Art Unit: 2123

ItemClass is linked to a SuperClass for associating groups of ItemClasses (**Figure 4**), wherein the step of defining a simulation model includes inputting said items using a host environment (**section 5, first 2 paragraphs**) wherein at least one item includes an Event property (**section 3,5**), processing each Event property with an event manager (**page 33, column 1, last paragraph-column 2, first paragraph**).

11. **Miller '97** does not expressly teach the simulation model being an SRML model and wherein the item manager is in operative communication with an XML parser for building a Document Object Model (DOM) tree in the process of loading items of the simulation model.

12. **Huang** teaches the JSIM simulation environment as taught by **Miller '97** (wherein Miller is also a co-author of Huang). **Huang** teaches the item manager in operative communication with an XML parser for building a Document Object Model (DOM) tree in the process of loading items of the simulation model (**page 146, column 1, paragraph 1 and column 2, paragraph 4**). **Huang** teaches that XML is a standard format for exchange of structured data over the Web with the potential to open up the possibility of syntactic and semantic interoperability between disparate systems (**page 145, column 2, paragraph 2**), and thereby eliminate confusion about the syntax of data being exchanged over the web (**page 145, column 1, last paragraph**). Further, **Huang** teaches XML based languages that have been developed with a common Document Type Definition (DTD) and methods that combine the XML meta-data standard and ontology mapping as an approach to achieve this semantic interoperability (**page 148, column 1, paragraph 3-column 2, paragraph 1**).

13. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the JSIM environment as taught in **Miller '97** to include communication with an XML parser as taught by **Huang** since an XML based language will allow others to view the simulation results over the web and provide syntactic and semantic interoperability between disparate systems (**page 145, column 2, paragraph**

2). Further, since **Huang** teaches XML based languages that are developed with a common Document Type Definition (DTD) and methods that combine the XML meta-data standard and ontology mapping as an approach to achieve this semantic interoperability (**page 148, column 1, paragraph 3-column 2, paragraph 1**), it would have been obvious to one of ordinary skill in the art at the time the invention was made to create models from languages that are XML-based to enable this interoperability. These XML based languages as taught by **Huang** have the same functionality as a simulation model created with SMRL since they can be converted to an XML document.

14. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Miller '97 and Huang** as applied to claim 1 above, and further in view of Miller et al (Miller et al, "Component-Based Simulation Environments: JSIM as a Case Study Using Java Beans", Proceedings of the 1998 Winter Simulation Conference, pages 373-381), herein referred to as **Miller '98**.

15. As to **Claim 8**, **Miller '97** teaches an event package which is used to build event-scheduling simulation models. **Miller'97** teaches communicating process commands such as ScheduleEvent (**section 3.1, last paragraph**).

16. **Miller '97** fails to disclose communicating process commands such as Sent Event, PostEvent and BroadcastEvent.

17. **Miller '98** also teaches the JSIM environment including communicating process commands such as Sent Event (**section 6,3, paragraph 1, sentences 8-9**), PostEvent (**section 6,3, paragraph 1, sentence 10**) and BroadcastEvent (**page 379, column 2, paragraph 1, last 4 sentences-paragraph 2, sentence 1**).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify communicating process commands and scheduling events as

Art Unit: 2123

taught by **Miller '97** with the SendEvent, PostEvent and BroadcastEvent commands as taught by **Miller '98** since both **Miller '97** and **Miller '98** discuss the JSIM environment and **Miller '98** simply extends the discussion of the communication of process commands as taught in **Miller '97**.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Tom Stevens whose telephone number is 571-272-

Application/Control Number: 09/865,293

Page 9


Art Unit: 2123

3715, Monday-Friday (8:00 am- 4:30 pm) or contact Supervisor Mr. Leo Picard at (571)

272-3749. Fax number is 571-273-3715.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.

June 4, 2005


W. T. Koon
TC 2100
AU 2123
Primary General

THS